



TAX EXEMPT AND
GOVERNMENT ENTITIES
DIVISION

DEPARTMENT OF THE TREASURY

Internal Revenue Service

MC 4915:Dal

1100 Commerce Street

Dallas, Texas 75242

August 27, 2008

Number: **201406013**
Release Date: 2/7/2014

ORG
ADDRESS

UIL: 501.03-00

Taxpayer Identification Number:

Form:

Tax Year(s) Ended:

Person to Contact/ID Number:

Contact Numbers:

Telephone:

Fax:

Certified Mail - Return Receipt Requested

Dear :

We have enclosed a copy of our report of examination explaining why we believe revocation of your exempt status under section 501(c)(3) of the Internal Revenue Code (Code) is necessary.

If you accept our findings, take no further action. We will issue a final revocation letter.

If you do not agree with our proposed revocation, you must submit to us a written request for Appeals Office consideration within 30 days from the date of this letter to protest our decision. Your protest should include a statement of the facts, the applicable law, and arguments in support of your position.

An Appeals officer will review your case. The Appeals office is independent of the Director, EO Examinations. The Appeals Office resolves most disputes informally and promptly. The enclosed Publication 3498, *The Examination Process*, and Publication 892, *Exempt Organizations Appeal Procedures for Unagreed Issues*, explain how to appeal an Internal Revenue Service (IRS) decision. Publication 3498 also includes information on your rights as a taxpayer and the IRS collection process.

You may also request that we refer this matter for technical advice as explained in Publication 892. If we issue a determination letter to you based on technical advice, no further administrative appeal is available to you within the IRS regarding the issue that was the subject of the technical advice.

If we do not hear from you within 30 days from the date of this letter, we will process your case based on the recommendations shown in the report of examination. If you do not protest this proposed determination within 30 days from the date of this letter, the IRS will consider it to be a failure to exhaust your available administrative remedies. Section 7428(b)(2) of the Code provides, in part: "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted its administrative remedies within the Internal Revenue Service." We will then issue a final revocation letter. We will also notify the appropriate state officials of the revocation in accordance with section 6104(c) of the Code.

You have the right to contact the office of the Taxpayer Advocate. Taxpayer Advocate assistance is not a substitute for established IRS procedures, such as the formal appeals process. The Taxpayer Advocate cannot reverse a legally correct tax determination, or extend the time fixed by law that you have to file a petition in a United States court. The Taxpayer Advocate can, however, see that a tax matter that may not have been resolved through normal channels gets prompt and proper handling. You may call toll-free 1-877-777-4778 and ask for Taxpayer Advocate Assistance. If you prefer, you may contact your local Taxpayer Advocate at:

If you have any questions, please call the contact person at the telephone number shown in the heading of this letter. If you write, please provide a telephone number and the most convenient time to call if we need to contact you.

Thank you for your cooperation.

Sincerely,

Larry Clevenger
EO, Revenue Agent

Enclosures:
Publication 892
Publication 3498
Report of Examination

Form 886A	Department of the Treasury - Internal Revenue Service Explanation of Items	Schedule No. or Exhibit
Name of Taxpayer ORG		Year/Period Ended 20XX12

LEGEND

ORG - Organization name XX - Date State - State President - president

Issue:

Whether ORG (ORG) qualifies for exemption under Section 501(c)(3) of the Internal Revenue Code.

Facts:

ORG was formed and incorporated in the state of State in 19XX, per President. The State of State has no record of the corporation's filing. The State of State has a record of ORG filing July 12, 20XX; however, the person filing this organization is not the founder of ORG.

The Organization was granted exemption from Federal Income Taxes under IRC Section 501(a), as described in Section 501(c)(3) and further described in Section 170(b)(1)(a)(vi), on July 20, 19XX. The Internal Revenue Service has misplaced the Administrative Record for this organization.

Contact was made with the Organization. Upon making contact with the President (President) of the Organization, President, was asked whether returns were filed for 20XX. President stated that no returns had been filed with the Internal Revenue Service. He also stated that when he moved to State from State after forming the corporation that he did not apply in State as a foreign corporation nor did he ever follow up on filings with the State of State.

President notified the Agent that the Organization was not operating, due to inability to obtain funding for any of its proposed projects. President stated that the only activity of the organization was the operation of its website and that his son, at a cost of \$ per month, maintained the website.

President provided the Agent with a faxed copy of the Determination Letter dated July 20, 19XX.

Information including a Form 6018-A, was sent July 28, 20XX to President by mail soliciting pertinent information about failure to operate. This was mailed to a P O Box, as it appeared that President was no longer at his apartment which was the address and telephone number the Agent was previously using.

Law

IRC Section 501(a) states that an organization described in subsection (c) or (d) shall be exempt

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from taxation under this subtitle unless such exemption is denied under Section 502 concerning feeder organization or Section 503 concerning organizations engaged in prohibited transactions.

Organizations exempt from federal taxes as described in IRC Section 501(c)(3) include corporations, and any community chest, fund, or foundation, organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals; no part of the net earnings of which inures to the benefit of any private shareholder or individual; no substantial part of the activities of which is carrying on propaganda, or otherwise attempting, to influence legislation; and which does not participate in, or intervene in, any political campaign on behalf of (or in opposition to) any candidate for public office.

Treasury Regulation Section 1.501(c)(3)-1(a)(1) states that in order to be exempt as an organization described in section 501(c)(3) of the Code, the organization must be one that is both organized and operated exclusively for one or more purposes specified in that section. If an organization fails to meet either the organizational or operational test, it is not exempt.

Treasury Regulation Section 1.501(c)(3)-1(c) specifies that with regard to the primary activities within the operational test, an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3).

Treasury Regulation Section 1.501(c)(3)-1(c)(1) provides that an organization will not be regarded as operated exclusively for exempt purposes if more than an insubstantial part of its activities is not in furtherance of exempt purposes.

Treasury Regulation Section 1.501(c)(3)-1(d)(1)(ii) states that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

Revenue Ruling 72-369 states, in part, that in order for an organization to pass the operational test the organization's resources must be devoted to purposes that qualify as exclusively charitable.

Taxpayer's Position

ORG has did not stated its position.

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Government's Position

The IRS section 501(c)(3) tax exempt status of ORG should be revoked because it is not operated exclusively for tax exempt purposes pursuant to the requirements set forth in section 1.501(c)(3)-1(c)(1) of the regulations.

ORG's lack of activities for more than three years also stands in contrast to section 1.501(c)(3)-1(c)(1) of the regulations in that the lack of operations is evidence that there is no furtherance of any exempt purpose.

In contrast to section 1.501(c)(3)-1(d)(ii) of the regulations which calls for an organization to be organized and operated for a public rather than a private benefit, the Organization has not operated or engaged in any charitable activities since its inception.

The Organization does not pass the operational test as specified in section 1.501(c)(3)-1(c) of the regulations because the lack of activities means they were not operated exclusively for one or more exempt purposes. To be considered as operating exclusively for exempt purposes, the Organization would have had to engage primarily in activities which accomplish one or more of such exempt purposes as specified in section 501(c)(3) of the Code.

As ORG has not operated exclusively for charitable purposes for an extended period, the tax exempt status of the Organization should be revoked.

Conclusion:

ORG does not qualify for tax exempt status under IRC section 501(a) as described in section 501(c)(3) of the Code. The lack of any qualified activity indicates that this organization should not be allowed to continue as a tax-exempt organization. Revocation of the tax-exempt status of ORG is proposed.